

§ 1203.735-411 Disqualification procedures.

(a) Where an employee is prohibited from participating in a matter because of a conflicting financial interest that is not exempt under § 1203.735-205(c) or has not been specifically excepted by the appropriate agency official pursuant to § 1203.735-217 in advance of the employee's participation in the particular matter, the employee shall conduct himself or herself in accordance with the following provisions:

(1) The employee shall promptly disclose the financial interest in such matter to the employee's immediate superior. The superior will thereupon relieve the employee of duty and responsibility in the matter.

(2) In foreign posts, it may be impossible or highly impracticable for an employee, who has a disqualifying financial interest, to assign the matter for official action to anyone other than a subordinate. In this event, the employee must instruct the subordinate to report fully and directly to the immediate superior to whom the employee himself or herself would normally report. The employee must concurrently direct such subordinate to take such action as may be appropriate in the matter, and without thereafter revealing to the disqualified employee

in any way any aspect of the particular matter.

(b) Nothing herein precludes the employee from disposing of such disqualifying financial interest, thereby wholly eliminating the conflict of interest. In some circumstances, where the employee may not obtain an exception under § 1203.735-217, or may not disqualify himself or herself and refer or assign the matter to another employee, the performance of duty may even require divestiture.

(c) Where a supervisor has reason to believe that a subordinate employee may have a conflicting financial interest, the supervisor should discuss the matter with the employee. If the supervisor finds that a conflict of interest does exist, the supervisor must relieve the subordinate employee of duty and responsibility in the particular matter.

(d) The obligation to avoid conflicts of interest is upon each employee. It is a continuing obligation calling for alert vigilance.

(e) Notwithstanding any other provision of this part to the contrary, if a employee's holdings rise in value above the amount exempted by § 1203.735-205(c), then the statutory and regulation prohibitions apply in a conflict of interest situation.